



CADPAC
Policy Subcommittee

Minutes
August 17, 2007

1. Welcome: The following subcommittee members were present: Judge Thomas Perrone, Chair; Judge Becky Pierson-Treacy; and, Steven Pifer. The following IJC staff was present: Jennifer Weber, staff attorney; and the following guest was present: Nancy Gettinger, attorney and Court Improvement Program Grants Administrator.
2. Minutes from February 16, 2007 meeting were approved with a spelling correction.
3. Juvenile survey – members reviewed the results from a survey distributed at the Juvenile Judges Conference, hosted by IJC, in June. (attachment 1) Approximately 1/3 of the attendees responded.
4. CHINS – program service expansion: Based on the survey results the subcommittee received, there was an indication that parents involved in CHINS actions with drug use issues might not have access to case management and assessment services. Ms. Nancy Gettinger, Court Improvement Program Grants Administrator, was invited to explain how existing resources might serve these parents, and how the CHINS determination, generally, proceeds.

Ms. Gettinger first explained that Indiana receives \$700,000 in Court Improvement Program (CIP) grant money to support court programs, training, and data collection/sharing. Ms. Gettinger further explained how special court programs aimed at serving CHINS juveniles can receive CIP money with county council matching, as “seed” money for special court programming aimed at helping families who come to court where drugs or neglect/abuse are issues for concern in addition

to the underlying juvenile proceeding. Most often, the special court programming involves the creation of a family court.

To assist subcommittee members in understanding how a CHINS action proceeds, Ms. Gettinger provided a visual flowchart as well as a written narrative (attachments 2 & 3).

Discussion ensued among committee members as to how best an alcohol and drug program might offer services to a court dealing with CHINS juveniles and substance-using parents. One option was to consider having courts with court alcohol and drug programs apply for CIP “seed” money to begin a program for monitoring parents’ drug use. Another option was to coordinate with family court pilot programs, currently being developed, and see if court alcohol and drug programs might want to voluntarily offer case management, assessment, and monitoring services to parents involved in CHINS cases being supervised by the court.

Subcommittee members concluded that at this time, it might be best to facilitate coordination among existing programs and family courts in a pilot study to determine whether alcohol and drug programs can appropriately monitor parents involved in CHINS proceedings. Under the statutes allowing for referrals from other courts, it was noted that there is some statutory authority existing for such an arrangement.

5. Juvenile programs – survey results were less conclusive on whether at this point an IJC-certified court alcohol and drug program for juveniles is warranted. While many judges were dissatisfied with alcohol and drug treatment options for juveniles, over half were satisfied with the assessment and case managements juveniles in their courts are receiving.

Members received written comments from Ms. Linda Murawski and Ms. Linda Brady, subcommittee members unable to attend the meeting. (Attachments 4&5).

Members conclude that at this time, while there does not appear to be an overwhelming need to create an infrastructure for certifying juvenile alcohol and drug programs, and no rule per se bars juveniles from receiving adult court alcohol and drug program services, continued investigation would be helpful. Therefore, Ms. Weber

agreed to speak with the program director's interested in beginning juvenile programs to see what additional juvenile needs are not being addressed in their counties.

6. Contractors – Ms. Weber reported that CADP staff was requesting guidance concerning professional requirements for contractors. Specifically, of question was whether contractors doing professional staff services such as case management, client assessment, or program management, should be required to have CSAMS. After examining the relevant Rules provisions, looking at section 32(b)(1); the definition of “professional staff member,” and section 30(b), it was determined that if the contractor or person supervising the contractor possessed a CSAMS credential, or a current substance abuse certification recognized by the Division of Mental Health and Addiction, that would be sufficient. (Attachment 6) Members also discussed that determining appropriate contractor qualifications would generally be a program director's responsibility, and only in ensuring appropriate referrals, be a certification issue for IJC's input. Ms. Weber agreed to convey this information to CADP staff.
7. Future 2008 Meeting dates were discussed and approved: 10-noon, Feb 15, May, 16, Aug. 22, and Nov. 21. (corresponding with CADPAC)
8. Next meeting: November 16, 2007
9. Adjourn

Respectfully Submitted,

Jennifer L. Weber
IJC staff attorney

**COURT ALCOHOL AND DRUG PROGRAMS FOR JUVENILES
SURVEY 6-21-07
Results**

1. Are you satisfied with current alcohol and drug treatment or education options for juveniles having alcohol and drug use problems?

YES: 6

NO: 29

2. Would you prefer having a policy and procedure for certifying and supporting juvenile court programs similar to current Court Alcohol and Drug Programs for adults?

YES: 24

NO: 10

3. In a month, approximately how many juvenile delinquency cases in your court involve alcohol or drug use?

A. 0-4: 5

B. 5-10: 8

C. 11-16: 10

D. greater than 16: 10

4. Currently, do you order juveniles with substance abuse issues for assessments and case management?

YES: 33

NO: 1

- a. Who provides the assessments and case management?

i. Probation: 16

ii. Comm Corrections: 2

iii. Private Providers: 26

iv. Mental Health Centers: 23

v. Other: 3

- b. Are you pleased with the quality of assessment and case management the juvenile receives?

YES: 18

NO: 11

- c. What do you do with juveniles who have substance use issues?

i. They are ordered to complete an assessment and recommended counseling or treatment

ii. Pray – refer to educational programs or drug court, we have no inpatient or intensive outpatient services for juveniles

iii. Probation, counseling, detention

**iv. Order assessment, treatment and random drug screens.
Review juvenile progress**

5. Is a juvenile substance use Court Alcohol and Drug Program needed to ensure a competent option exists for juveniles to receive assessments and case management functions?

YES: 18

NO: 12

UNSURE: 4

6. When you order a parent in a CHINS case who has substance use issues, do you order them to private providers for assessment and treatment purposes?

YES: 31

NO: 2

- a. If yes, who is responsible for monitoring the case and ensuring the parent is complying with your order?

DCS: 18

Juvenile Probation: 2

Case Manager: 5

Parent: 1

- b. If no, should a program exist for monitoring parents in CHINS cases who are in alcohol and drug treatment?

YES: 5

NO: 2

7. Would expanding current Court Alcohol and Drug Programs policies and procedures to allow for referrals for CHINS parents with substance use issues provide an additional tool for you in monitoring parents with drug or alcohol use issues?

YES: 23

NO: 5

MAYBE: 2

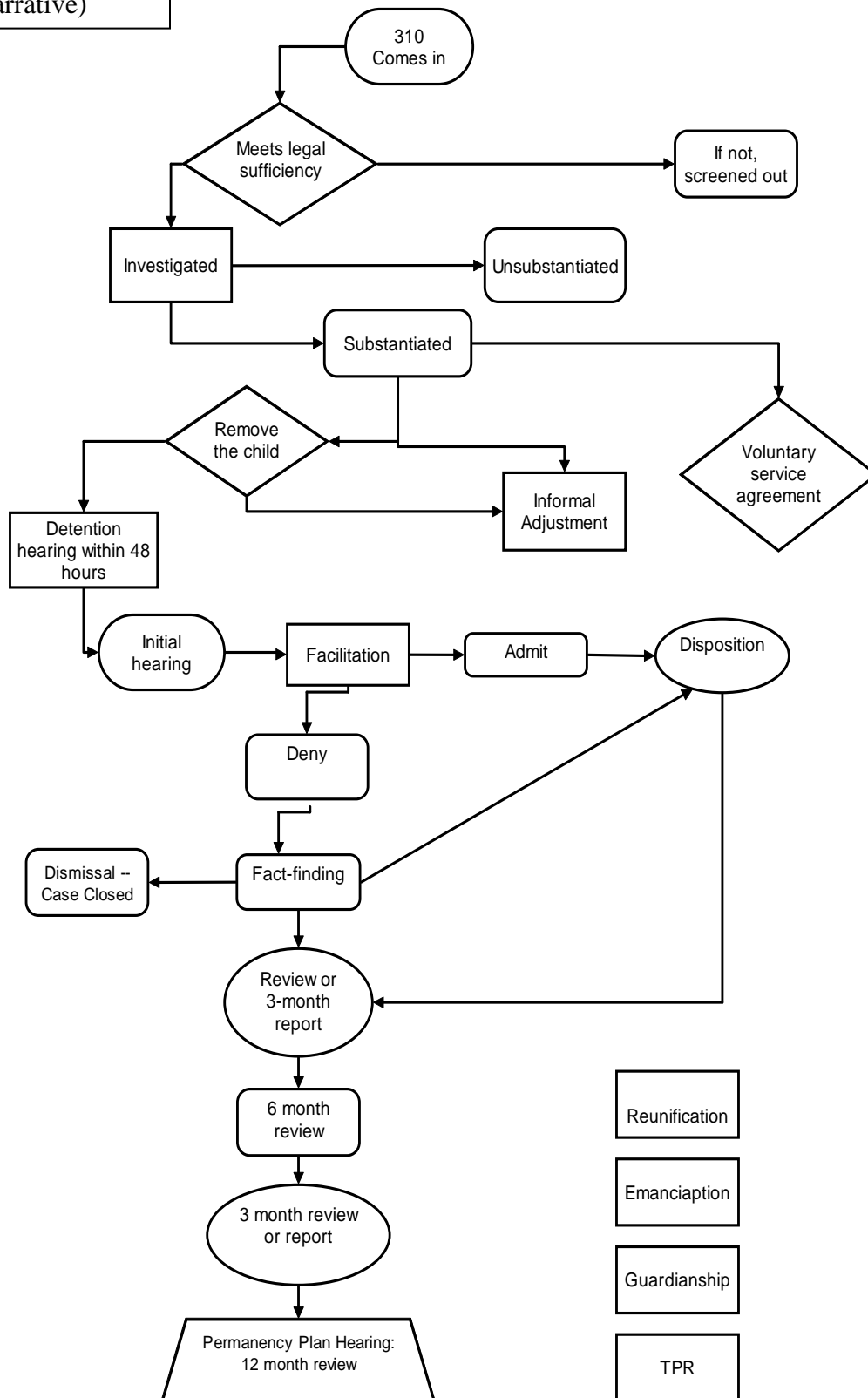
Additional Comments:

- Wabash County Superior Court has adult drug and alcohol program, initial stages. I have now made a CHINS parent referral, and we are using this as our "test" case.
- I think it is a duplication of services to have a court sponsored drug and alcohol program when a community has a tax supported mental health facility. If such a facility is not doing its job there are ways to make such a facility do its job rather than to start a court program. I am dubious of court sponsored drug and alcohol program. It is often a duplication of expenses and services, often unfair to those in need the taxpayers.
- The problem I have is that in my county, we only have an entry-level drug and alcohol awareness/education program for juveniles – even if they are addicted. Our Community Mental Health provider does NOT provide services for juveniles with substance abuse. We are working to develop a program with juvenile home in our county to provide intensive outpatient treatment.
- Just started a CHINS Drug Court – Having great success
- Bartholomew County has also been trying to identify a good curriculum for alcohol and drug treatment for youth. Traditional IOP is not effective. Ideally, we would like a cognitive behavioral program.

Attachments 2
& 3
(chart and
narrative)

CHINS Actions Flowchart

Prepared by Nancy L. Gettinger, JD -- LaPorte County DCS



Drug Courts in Juvenile Courts

The investigation and treatment of child abuse and neglect is a process. Attached is a flow chart that represents an oversimplified explanation of how an allegation of abuse or neglect of a child¹ winds its way through the system. Some of those allegations end up in juvenile court as a Child in Need of Services (CHINS) proceeding.

Often, families who end up in court under a CHINS have substance abuse issues. One of the allegations that may trigger an investigation and perhaps the filing of a petition has to do with reports that infants are born positive for illegal substance in their system. Typically these reports come from hospitals at the time of birth.

IC 31-34-1-10

Child born with fetal alcohol syndrome or with controlled substance or legend drug in child's body

Sec. 10. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

(1) the child is born with:

(A) fetal alcohol syndrome; or

(B) any amount, including a trace amount, of a controlled substance or a legend drug in the child's body; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; or

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L. 1-1997, SEC. 17.

Additionally, children may be neglected if substance abuse by the parent causes a parent to not adequately provide for the child. Allegations of neglect will also trigger an investigation and if the neglect is serious, those cases typically end up in court.

¹ On the flowchart, a report of alleged abuse or neglect is referred to as a “310” This is the number on the state form that is used to record the report.

IC 31-34-1-1

Inability, refusal, or neglect of parent, guardian, or custodian to supply child with necessary food, clothing, shelter, medical care, education, or supervision

Sec. 1. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

As added by P.L. 1-1997, SEC. 17. Amended by P.L. 2-2005, SEC. 76.

For those cases that are investigated by the Department of Child Services and that result in a substantiated finding and that the Family Case Manager feels need the “coercive intervention of the court,” a Petition Alleging Child in Need of Services is filed with the court.

Assuming that there is adjudication², the court will eventually enter an order of disposition. That order will be subject to periodic judicial review. In those cases in which the allegations include substance abuse by the parents, it is likely that the court will order the parents to participate in some kind of related services.

IC 31-34-20-1³

Entry of dispositional decrees

Sec. 1. Subject to section 1.5 of this chapter, if a child is a **child in need**

² CHINS is a civil proceeding. The parents either admit or deny the allegations. In the event of a denial, the court will hold a fact-finding hearing to determine the allegations to be true by a preponderance of the evidence.

³ There is a similar statute regarding dispositional orders for children adjudicated to be delinquents. **IC 31-37-19 et seq.**

of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department or the county office or the department.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a person or shelter care facility.

(5) Partially or completely emancipate the child under section 6 of this chapter.

(6) **Order:**

(A) the child; or

(B) **the child's parent, guardian, or custodian;**

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(8) Order a perpetrator of child abuse or neglect to refrain from returning to the child's residence.

As added by P.L. 1-1997, SEC. 17. Amended by P.L. 70-2004, SEC. 21; P.L. 145-2006, SEC. 311; P.L. 146-2006, SEC. 50; P.L. 52-2007, SEC. 10.

Juvenile courts should and typically do enter Parental Participation Orders at the time of disposition.⁴ The court will hold a hearing on the Petition and must advise the parents that failure to comply could result in the termination of parental rights. If the DCS or the

⁴ In *Mikel v. Elkhart County Department of Public Welfare*, 622 N.E.2d 225 (Ind. Ct. App 1993), the Court of Appeals concluded that “the language of I.C. 31-6-4-17 mandates certain procedures be followed before the juvenile court can affirmatively order the participation of a parent in a dispositional decree.” 622 N.E.2d at 229

GAL files a Petition for Rule to Show Cause, the parent may also be found to be in contempt.⁵

IC 31-34-20-3

Order for participation by parent, guardian, or custodian in program of care, treatment, or rehabilitation for child

Sec. 3. If the juvenile court determines that a parent, guardian, or custodian should participate in a program of care, treatment, or rehabilitation for the child, the court may order the parent, guardian, or custodian to do the following:

- (1) Obtain assistance in fulfilling the obligations as a parent, guardian, or custodian.**
- (2) Provide specified care, treatment, or supervision for the child.
- (3) Work with a person providing care, treatment, or rehabilitation for the child.
- (4) Participate in a program operated by or through the department of correction.

While the CHINS is open, there may or may not be criminal charges pending as well. If the criminal court is involved, the courts try to work together so that there are no conflicting orders. However, juvenile judges report that finding appropriate substance abuse services for parents of children adjudicated CHINS is difficult, particularly services that include an accountability component. Based on the survey distributed and completed at their June conference, many judges have an interest in a drug court for parents of children adjudicated CHINS.

⁵ There is a corresponding statute regarding Parental Participation Decrees for parents of children adjudicated delinquents. **IC 31-37-15 et seq.**

THE ROLE OF PROBATION OFFICERS IN CIVIL DIVISION CASES

Written by Linda Brady, Chief Probation Officer, Monroe Circuit Court

August 13, 2007

In January 2005, the Monroe Circuit Court Board of Judges began utilizing probation officers to perform various duties related to Civil cases. Since that time, our probation officers have been conducting investigations and preparing reports for our judges in various Civil cases including Paternity, Divorce, and CHINS (Children in Need of Services).

At this time, there is no specific training provided by the Indiana Judicial Center for conducting Civil case investigations. Therefore, our probation officers have relied on their skills and experience conducting adult Presentence Investigations and juvenile Preliminary Inquiries/Pre-dispositional Reports.

Additionally, there is no Indiana “form” for a probation officer to follow to write these Civil case reports. Without a state form to use as a guide, and with no formal training conducting these Civil investigations, our probation officers have resorted to “trial and error.” While probation officers know that an average adult Presentence Investigation should take about 8 hours to complete, they had no idea how to gauge the time it should take to conduct a Civil court investigation. Because probation officers are accustomed to being very thorough in conducting their work, they found that these Civil investigations could “go on forever.” After a couple of investigations took more than 50 hours to complete, we have tried to limit the time spent on Civil investigations as much as possible.

Between January 1, 2005 and June 8, 2007, the Monroe County Probation Department was ordered to complete 69 Civil/Family Court investigations. Our probation officers found that the average Paternity investigation took 15 hours to complete while the average investigation in Divorce cases took 20 hours to complete. On average, probation officers spent 16.60 hours per Civil/Family Court investigation. This is a significant use of limited probation officer work time. Civil/Family Court investigations, on average, take more than 2 times the average time for an Adult Presentence Investigation and more than 11 times the average time for a Juvenile Preliminary Inquiry.

It is a fair assessment to say that our judges are well satisfied with the quality of the investigations and reports completed by probation officers in Civil cases. The Civil Division judges would like to have more probation officer time available for these Civil investigations. However, with limited probation officer resources, the Board of Judges has agreed that adult Presentence Investigations and juvenile Preliminary Inquiries come first. The Civil Division judges have been willing to scale back their requests for probation officers to conduct these investigations. At this time, the judges have voluntarily limited the investigations to cases involving significant parental substance abuse and/or allegations of abuse/neglect.

I have recently been called by other Chief Probation Officers asking about Civil investigations being conducted by probation officers.

The following collection of current Indiana laws includes a variety of duties which may be performed by probation officers.

PROBATION OFFICERS IN PATERNITY CASES

IC 31-14-10 Chapter 10. Hearing to Determine Support, Custody, and Parenting Time Following Determination of Paternity

IC 31-14-10-1 Hearing to determine support, custody and parenting time following initial determination of paternity; order to probation officer or caseworker to prepare report

Sec. 1. Upon finding that a man is the child's biological father, the court shall, in the initial determination, conduct a hearing to determine the issues of support, custody, and parenting time. Upon the request of any party or on the court's own motion, the court may order a **probation officer** or caseworker to prepare a report to assist the court in determining these matters. *As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.15.*

IC 31-14-10-2 Consultation with **probation officer or caseworker; referral of child for evaluation**

Sec. 2. The **probation officer** or caseworker may do the following:

- (1) Consult with any person who may have information about the child and the child's potential custodial arrangements.
- (2) Upon approval of the court, refer the child for professional diagnosis and evaluation.
- (3) Without consent from the child's parent or guardian, consult with and obtain information concerning the child from:
 - (A) medical;
 - (B) psychiatric;
 - (C) psychological; or
 - (D) other;persons who have knowledge of the child. *As added by P.L.1-1997, SEC.6.*

IC 31-14-13 Chapter 13. Custody Following Determination of Paternity

IC 31-14-13-5 Supervision of placement

Sec. 5. The court may order the **probation department**, the county office of family and children, or any licensed child placing agency to supervise the placement to ensure that the custodial or parenting time terms of the decree are carried out if:

- (1) both parents or the child request supervision; or
- (2) the court finds that without supervision the child's physical health and well-being would be endangered or the child's emotional development would be significantly impaired. *As added by P.L.1-1997, SEC.6. Amended by P.L.68-2005, SEC.17.*

PROBATION OFFICERS IN DIVORCE CASES

IC 31-17-2 Chapter 2. Actions for Child Custody and Modification of Child Custody Orders

IC 31-17-2-12 Investigation and report concerning custodial arrangements for child

Sec. 12. (a) In custody proceedings after evidence is submitted upon the petition, if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by any of the following:

- (1) The court social service agency.
- (2) The staff of the juvenile court.
- (3) The **local probation department** or the county office of family and children.
- (4) A private agency employed by the court for the purpose.
- (5) A guardian ad litem or court appointed special advocate appointed for the child by the court under IC 31-17-6 (or IC 31-1-11.5-28 before its repeal).

(b) In preparing a report concerning a child, the investigator may consult any person who may have information about the child and the child's potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian. However, the child's consent must be obtained if the child is of sufficient age and capable of forming rational and independent judgments. If the requirements of subsection (c) are fulfilled, the investigator's report:

- (1) may be received in evidence at the hearing; and
- (2) may not be excluded on the grounds that the report is hearsay or otherwise incompetent.

(c) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten (10) days before the hearing. The investigator shall make the following available to counsel and to any party not represented by counsel:

- (1) The investigator's file of underlying data and reports.
- (2) Complete texts of diagnostic reports made to the investigator under subsection (b).
- (3) The names and addresses of all persons whom the investigator has consulted.

(d) Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party to the proceeding may not waive the party's right of cross-examination before the hearing. *As added by P.L.1-1997, SEC.9.*

IC 31-17-2-18 Continuing supervision

Sec. 18. If both parents or all contestants agree to the order or if the court finds that, in the absence of the order, the child's physical health might be endangered or the child's emotional development significantly impaired, the court may order:

- (1) the court social service agency;
- (2) the staff of the juvenile court;
- (3) the **local probation department**;
- (4) the county office of family and children; or
- (5) a private agency employed by the court for that purpose;

to exercise continuing supervision over the case to assure that the custodial or parenting time terms of the decree are carried out. *As added by P.L.1-1997, SEC.9. Amended by P.L.68-2005, SEC.34.*

PROBATION OFFICERS IN CHILDREN IN NEED OF SERVICES

(CHINS) CASES

IC 31-34 ARTICLE 34. JUVENILE LAW: CHILDREN IN NEED OF SERVICES

IC 31-34-18 Chapter 18. Predispositional Report

IC 31-34-18-1 Predispositional report; recommendation of care, treatment, or rehabilitation of child; alternative reports

Sec. 1. (a) Upon finding that a child is a child in need of services, the juvenile court shall order a **probation officer** or a caseworker to prepare a predispositional report that contains a:

- (1) statement of the needs of the child for care, treatment, rehabilitation, or placement; and
- (2) recommendation for the care, treatment, rehabilitation, or placement of the child.

(b) Any of the following may prepare an alternative report for consideration by the court:

- (1) The child.
- (2) The child's:
 - (A) parent;
 - (B) guardian;
 - (C) guardian ad litem;
 - (D) court appointed special advocate; or
 - (E) custodian. *As added by P.L.1-1997, SEC.17. Amended by P.L.55-1997, SEC.14.*

IC 31-34-18-1.1 Consultation with experts; participants in conference

Sec. 1.1. (a) The person preparing the report under section 1 of this chapter:

- (1) may; or
- (2) if directed by the court, shall; confer with individuals who have expertise in professional areas related to the child's needs in the areas of appropriate care, treatment, rehabilitation, or placement for a child in need of services.

(b) A conference held under this section may include representatives of the following:

- (1) The child's school.
- (2) **The probation department.**
- (3) The department.
- (4) A community mental health center located in the child's county of residence.
- (5) A community mental retardation and other developmental disabilities center located in the child's county of residence.
- (6) Other persons as the court may direct. *As added by P.L.55-1997, SEC.15. Amended by P.L.145-2006, SEC.307*

IC 31-34-18-2 Predispositional report; participation by parent, guardian, or custodian; out-of-home placement with blood or adoptive relative caretaker

Sec. 2. (a) In addition to providing the court with a recommendation for the care, treatment, or rehabilitation of the child, the person preparing the report shall consider the necessity, nature, and extent of the participation by a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child.

(b) If a **probation officer** or caseworker believes that an out-of-home placement would be appropriate for a child in need of services, the probation officer or caseworker shall consider

whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child. As added by P.L.1-1997, SEC.17.

CHILDREN IN NEED OF SERVICES (CHINS) (continued)

IC 31-34-18-3 Financial reports

Sec. 3. The **probation officer** or caseworker shall also prepare a financial report on the parent or the estate of the child to assist the juvenile court in determining the person's financial responsibility for services provided for the child or the person. As added by P.L.1-1997, SEC.17.

IC 31-34-18-6.1 Predispositional report; contents

Sec. 6.1. (a) The predispositional report prepared by a **probation officer** or caseworker shall include the following information:

- (1) A description of all dispositional options considered in preparing the report.
 - (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.
 - (3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.
- (b) If a **probation officer** or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person who is currently residing in the location designated as the out-of-home placement. The results of the criminal history check must be included in the predispositional report.

(c) A **probation officer** or caseworker is not required to conduct a criminal history check under this section if:

- (1) the **probation officer** or caseworker is considering only an out-of-home placement to an entity or facility that:
 - (A) is not a residence (as defined in IC 3-5-2-42.5); or
 - (B) is licensed by the state; or
- (2) placement under this section is undetermined at the time the predispositional report is prepared.

As added by P.L.55-1997, SEC.19. Amended by P.L.70-2004, SEC.19; P.L.234-2005, SEC.181; P.L.145-2006, SEC.308.

IC 31-34-20 Chapter 20. Dispositional Decrees

IC 31-34-20-1 Entry of dispositional decrees

Sec. 1. Subject to section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the **probation department** or the county office or the department.
- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

- (4) Award wardship to a person or shelter care facility.
- (5) Partially or completely emancipate the child under section 6 of this chapter.
- (6) Order:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian; to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.
- (8) Order a perpetrator of child abuse or neglect to refrain from returning to the child's residence. *As added by P.L.1-1997, SEC.17. Amended by P.L.70-2004, SEC.21; P.L.145-2006, SEC.311; P.L.146-2006, SEC.50; P.L.52-2007, SEC.10.*

CHILDREN IN NEED OF SERVICES (CHINS) (continued)

IC 31-34-20-1.5 Placement in household with certain individuals prohibited; exceptions; criminal history checks

Sec. 1.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a county office or the department that will place the child with a person under section 1(4) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The juvenile court shall order the **probation officer** or caseworker who prepared the predispositional report to conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2 or IC 31-34-18-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) A **probation officer** or caseworker is not required to conduct a criminal history check under this section if:

(1) the **probation officer** or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

(d) A court may enter a dispositional decree placing a child in another home or award wardship to a county office if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home or award wardship to a county office or the department if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a

felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable. *As added by P.L.70-2004, SEC.22. Amended by P.L.234-2005, SEC.183; P.L.145-2006, SEC.312; P.L.1-2007, SEC.207.*

CHILDREN IN NEED OF SERVICES (CHINS) (continued)

IC 31-34-21 Chapter 21. Review of Dispositional Decrees; Formal Review Hearings

IC 31-34-21-3 Progress report required before case review

Sec. 3. Before a case review under section 2 of this chapter, the **probation department** or the department shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

As added by P.L.1-1997, SEC.17. Amended by P.L.145-2006, SEC.315.

IC 31-34-22 Chapter 22. Reports Required for Reviewing Dispositional Decrees

IC 31-34-22-1 Progress report; modification report

Sec. 1. (a) Before a case review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the **probation department** or the department shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family.

(b) Before preparing the report required by subsection (a), the **probation department** or the department shall consult a foster parent of the child about the child's progress made while in the foster parent's care.

(c) If modification of the dispositional decree is recommended, the **probation department** or the department shall prepare a modification report containing the information required by IC 31-34-18 and request a formal court hearing. *As added by P.L.1-1997, SEC.17. Amended by P.L.138-2007, SEC.75.*

PROBATION OFFICERS & RESTRICTIVE PLACEMENTS

IC 31 Family Law

IC 31-9-2-103 "Referring agency"

Sec. 103. "Referring agency", for purposes of IC 31-38, means:

(1) a **juvenile court**;

(2) a **court having civil jurisdiction**;

(3) a community mental health center or managed care provider (as defined in IC 12-7-2-127(b));

(4) a county office of family and children; or

(5) a school corporation; that proposes to make a restrictive placement or recommend a restrictive placement to a person with the authority to make a restrictive placement. *As added by P.L.1-1997, SEC.1.*

IC 31-38-2 Chapter 2. Review of Proposed Restrictive Placements of Children by Local Coordinating Committees

IC 31-38-2-4 Presence of probation officer at committee meeting

Sec. 4. If the referring agency is a court, a **probation officer** familiar with the proposed restrictive placement must be present at the committee meeting convened under section 2 of this chapter when the restrictive placement proposed by the court is being considered. *As added by P.L.1-1997, SEC.21.*

IC 12-19-1-12 Placement of delinquent children in foster family homes; approval

Sec. 12. A county office may place and supervise delinquent children in foster family homes only with the approval of all of the following:

(1) The juvenile court.

(2) The probation department.

(3) The county office. *As added by P.L.2-1992, SEC.13. Amended by P.L.4-1993, SEC.164; P.L.5-1993, SEC.177; P.L.61-1993, SEC.61; P.L.1-1994, SEC.68.*

ROLE OF PROBATION OFFICERS IN MISCELLANEOUS CIVIL MATTERS

IC 12-26 ARTICLE 26. VOLUNTARY AND INVOLUNTARY TREATMENT OF MENTALLY ILL INDIVIDUALS

IC 12-26-8-9 Progress reports; case reviews

Sec. 9. A juvenile court that commits a child under this article shall require the county office or the **probation department** for the court to report to the court on the progress made in implementing the commitment at least every six (6) months. If the committed child is a child in need of services, the county office shall perform case reviews of the child's commitment under IC 31-34-21. As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.206; *P.L.5-1993, SEC.219; P.L.1-1997, SEC.89.*

IC 31-35 ARTICLE 35. JUVENILE LAW: TERMINATION OF PARENT-CHILD RELATIONSHIP

IC 31-35-1-7 Inquiry on parents' absence; investigation of fraud, duress, and competency to consent; order for child's care pending outcome of case

Sec. 7. (a) Before the court may enter a termination order, the court:

(1) must inquire about the reasons for the parents' absence; and

(2) **may require an investigation by a probation officer** to:

(A) determine whether there is any evidence of fraud or duress; and

(B) establish that the parents were competent to give their consent.

(b) An investigation conducted under subsection (a) must be entered on the record under oath by the person responsible for making the investigation.

(c) If there is any competent evidence of probative value that:

(1) fraud or duress was present when the written consent was given; or

(2) a parent was incompetent; the court shall dismiss the petition or continue the proceeding.

(d) The court may issue any appropriate order for the care of the child pending the outcome of the case. *As added by P.L.1-1997, SEC.18.*

GENERAL PROBATION OFFICER DUTIES

IC 11-13 ARTICLE 13. PROBATION AND PAROLE

IC 11-13-1 Chapter 1. Probation Administration

IC 11-13-1-3 Probation officers; mandatory duties

Sec. 3. A probation officer shall:

- (1) conduct prehearing and presentence investigations and prepare reports as required by law;
- (2) assist the courts in making pretrial release decisions;
- (3) assist the courts, prosecuting attorneys, and other law enforcement officials in making decisions regarding the diversion of charged individuals to appropriate noncriminal alternatives;
- (4) furnish each person placed on probation under his supervision a written statement of the conditions of his probation and instruct him regarding those conditions;
- (5) supervise and assist persons on probation consistent with conditions of probation imposed by the court;
- (6) bring to the court's attention any modification in the conditions of probation considered advisable;
- (7) notify the court when a violation of a condition of probation occurs;
- (8) cooperate with public and private agencies and other persons concerned with the treatment or welfare of persons on probation, and assist them in obtaining services from those agencies and persons;
- (9) keep accurate records of cases investigated by him and of all cases assigned to him by the court and make these records available to the court upon request;
- (10) collect and disburse money from persons under his supervision according to the order of the court, and keep accurate and complete accounts of those collections and disbursements;
- (11) assist the court in transferring supervision of a person on probation to a court in another jurisdiction; and
- (12) perform other duties required by law or as directed by the court. *As added by Acts 1979, P.L.120, SEC.6.*

IC 31-31-5 Chapter 5. Juvenile Court Probation Officers

IC 31-31-5-1 Appointment of probation officers and other employees

Sec. 1. The judge of the juvenile court shall appoint a chief probation officer and may appoint other probation officers and an appropriate number of other employees to assist the probation department. *As added by P.L.1-1997, SEC.14.*

IC 31-31-5-4 Duties of probation officers

Sec. 4. A probation officer shall, for the purpose of carrying out the juvenile law:

- (1) conduct such investigations and prepare such reports and recommendations as the court directs and keep a written record of those investigations, reports, and recommendations;
- (2) receive and examine complaints and allegations concerning matters covered by the juvenile law and make preliminary inquiries and investigations;
- (3) implement informal adjustments;
- (4) prepare and submit the predisposition report required for a dispositional hearing under the juvenile law;

(5) supervise and assist by all suitable methods a child placed on probation or in the probation officer's care by order of the court or other legal authority;

(6) keep complete records of the probation officer's work and comply with any order of the court concerning the collection, protection, and distribution of any money or other property coming into the probation officer's hands; and

(7) perform such other functions as are designated by the juvenile law or by the court in accordance with the juvenile law. *As added by P.L.1-1997, SEC.14.*

Attachment 5

Kcadp <kcadp@wvc.net> wrote on 08/14/2007 12:51:28 PM: relevant section only

> I have some concerns on the juvenile issues. Mostly that we
> not step on toes of FSSA, etc. I think we may be crossing boundaries
> a little and that could lead to some resentment particularly in
> small communities. I realize that it is just so that you can do it
> if you want however sometimes it is what is perceived rather than
> what is acutally happening and that can be detrimental in small
> areas. We have enough "turf wars"! Thanks and hoepfully I can make it. Linda

Contractor Provisions

Section 32. Contractors

(a) This subsection applies to all court alcohol and drug programs. A sponsoring court or its court program may contract with a person, firm, corporation, association, or governmental entity, including another court or court program, to provide one (1) or more services for the court program except eligibility determination and case termination. A contractor must possess and demonstrate the capability to provide contractual services for the program in the manner intended and meet all requirements contained in IC 12-23-14 and these rules that apply to the services the contractor will provide.

(b) This subsection applies to all court alcohol and drug programs. If a program contracts for one (1) or more services with a person, the contractor or any person performing services under the contract may not:

- (1) be an employee of the program; and
- (2) receive compensation from the program for services other than the contracted services

"Professional staff member" means a person hired as an employee, contractor, or volunteer, to perform program management, client assessment, or case management.

Section 30. Professional Requirements

(a) A program must have written policies and procedures describing staff qualifications that comply with current rules requirements.

(b) All professional staff members hired after December 31, 2004, must obtain and maintain a Court Substance Abuse Management Specialist (CSAMS) credential, and will be allowed two (2) years from the date of first hire as a professional staff member to complete the requirements for the CSAMS credential.